



ALFRED POLIZZOTTO (1935-2001)  
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**VIA ELECTRONIC FILING**

**April 15, 2024**

The Honorable Gabriel W. Gorenstein  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

**Re: Request for conference on motion to compel  
Tyler Erdman v. Adam Victor, et al., No. 20 Civ. 4162**

Dear Judge Gorenstein,

This letter is written to request a conference for the purpose of discussing our motion to compel Plaintiff to produce the documents demanded in our post-EBT demand dated February 3, 2024.

On February 3, 2024, we served timely post-EBT demands on the Plaintiff, seeking the production of five documents utilized by him in his Second Amended Complaint that were the sources of the five allegedly defamatory remarks which survived the partial grant of our motion to dismiss, as indicated in the Opinion and Order of Judge Schofield dated November 17, 2021. A copy of these demands has been attached as an exhibit. Plaintiff served a response on March 4, 2024, objecting to the production. During a phone call with him shortly after we received his response, Mr. Polizzotto and I discussed his objections with him for about 35 minutes. He saw no reason why he should have to produce the documents requested, one of the reasons being they were in our possession. We have the right to develop our case, whether for dispositive motion purposes or at trial, and to do so properly, need the exact documents claimed by him to have caused him damages. Due to the nature of the description of the documents that were the sources

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of the remarks, it is possible we may possess some of the documents he used. However, we cannot properly present our defense if he is able to easily deny a document we have presented as evidence, during motion practice or at trial, is one he used. Also, we are not in the possession of some of the documents listed in our post-EBT demand. Therefore, it is his obligation to respond to requests made in accordance with the FRCP.

At the end of our discussion, we informed him of our belief that the parties were at an impasse, and that we would be requesting a conference with the court. Therefore, due to his continued refusal to produce the documents in question, we request a conference to discuss the matter, and to discuss our own motion to compel him to respond to our post-EBT demands. As part of our submission to the court on April 5, we attempted to request the conference mentioned above, but were rejected because it did not comply with the Individual Practices of the Court.

Therefore, we ask that the Court either establish a conference date for discussing our motion to compel, or declare this subject to be raised during the upcoming conference to be held with the Court on April 17, 2024 at 10:30 a.m.

Yours faithfully  
**Polizzotto & Polizzotto, LLC**

  
Emilio Rodriguez

  
Alfred Polizzotto III